

SUPPORT FOR THE AMENDMENT

This Amendment amends Claims 9 and 42. Support for the amendments is found in the specification and claims as originally filed. In particular, support for "optionally" in Claims 9 and 42 is found in the specification at least at page 3, line 24 ("monomers, which may be present in the polymer"). No new matter would be introduced by entry of these amendments.

Upon entry of these amendments, Claims 9-14, 16-26, 28, 31-32, 36-52, 54 and 57-58 will be pending in this application. Claims 9, 31, 36 and 57 are independent.

REQUEST FOR RECONSIDERATION

Applicants respectfully request entry of the foregoing and reexamination and reconsideration of the application, as amended, in light of the remarks that follow.

Applicants thank the Examiner for the courtesies extended to their representative during the June 21, 2005, personal interview.

As discussed at the interview, the present invention provides methods of adhering a floor covering using an aqueous adhesive composition having improved wet bonding capacity. Specification at page 2, lines 1-3.

Claims 9 and 22 are rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1 and 7 of U.S. Patent No. 6,409,860 ("Fickeisen"). Applicants respectfully traverse the rejection because any *prima facie* case of obviousness based on Claims 1 and 7 of Fickeisen is rebutted by the significant improvement in wet bonding capacity that is achieved by the present invention over independent Claim 9's range of "a gel content of 5 to 40%". See, e.g., M.P.E.P. §804.II.B.1, page 800-22, column 2.

The specification at Tables 1 and 3 are reproduced below:

Table 1: Physical data of the dispersions

	Dispersion	SC	M _n	M _w	M _w /M _n	Gel content % by weight	T _g /°C
20	Acronal A200 for comparison	70%	26,000	416,00 [sic]	16	54%	-47
25	Acronal A323 for comparison	55%	5800	753,000	130	70%	-22
	Acronal 378 for comparison	62%	22,000	437,000	20	68%	-22
	Acronal DS	62%	11,900	354,000	30	15%	-22

30 SC: Solids content

T_g: Glass transition temperature

Table 3

		Peel values N/mm		WBC N/5 cm			
		10 min	30 min	10 min	15 min	20 min	30 min
10	1 (for comparison)	0.34	0.24	4	7	9	8
15	2 (for comparison)	0.91	0.07	2	5	11	22
	3 (for comparison)	1.38	0.18	4	10	19	34
	4	1.22	0.24	12	26	44	49

Table 1 and 3 show that the Acronal DS example of the present invention, with a gel content of 15%, has significantly improved wet bonding capacity ("WBC") relative to the comparative examples Acronal A200, with a gel content of 54%; Acronal A323, with a gel content of 70%; and Acronal 378, with a gel content of 68%.

Claims 1 and 7 of Fickeisen are directed to adhering a floor covering with a floor adhesive comprising an aqueous composition containing 20-99% of a polymer and 1-80% of a filler. Fickeisen discloses that the proportion of the insoluble components in the polymer is preferably from 0-90%. Fickeisen at column 2, lines 40-41.

However, Claim 1 and 7 of Fickeisen are silent about gel content and about the significant improvement in wet bonding capacity that is achieved by the present invention over independent Claim 9's range of "a gel content of 5 to 40%".

Thus, any *prima facie* case for the obviousness of Claims 9 and 22 based on Claim 1 and 7 of Fickeisen is rebutted. As a result, the obviousness-type double patenting rejection should be withdrawn.

Claims 9 and 22 are rejected under 35 U.S.C. § 103(a) over Fickeisen. In addition, Claims 9-14, 16-26, 28, 31-32, 36-52, 54 and 57-58 are rejected under 35 U.S.C. § 103(a) over Fickeisen. Applicants respectfully traverse the rejections because Fickeisen is not prior art to the above identified application. Fickeisen and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Pursuant to 35 U.S.C. 103(c), Fickeisen "shall not preclude patentability" under § 103(a) of the presently claimed invention. Thus, the rejections under 35 U.S.C. § 103(a) over Fickeisen should be withdrawn.

Claims 16-17 and 43-44 are objected to under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. To obviate the objection, Claim 9 (from which Claims 16-17 depend) and Claim 42 (from which Claims 43-44 depend) are amended to recite "said polymer *optionally* further comprises a monomer unit".

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance. Applicants respectfully request favorable consideration and prompt allowance of the application.

Should the Examiner believe that anything further is necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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